

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE**

**Call to Order:** By **CHAIRMAN RICK RIPLEY**, on January 19, 2005 at  
8:00 A.M., in Room 317-C Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Rick Ripley, Chairman (R)  
Sen. Ken (Kim) Hansen, Vice Chairman (D)  
Sen. Gregory D. Barkus (R)  
Sen. Bob Hawks (D)  
Rep. Walter McNutt (R)  
Rep. John L. Musgrove (D)

**Members Excused:** Rep. Rosalie (Rosie) Buzzas (D) was absent  
for a portion of the meeting.

**Members Absent:** None.

**Staff Present:** Barbara Smith, Legislative Branch  
Doug Schmitz, Budget and Program  
Planning Office Representative  
Cynthia A. Peterson, Secretary pro tem

**Please Note.** These are summary minutes. Testimony and discussion  
are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: None.  
Executive Action: Department of Natural Resources and  
Conservation

**Barbara Smith** submitted Pay Schedules for FY 2003-2005.  
**Ms. Smith** also submitted a correction on the Nursery Program.

[EXHIBIT\(jnh14a01\)](#)

[EXHIBIT\(jnh14a02\)](#)

**CHAIRMAN RIPLEY** referred the Committee members to the spreadsheet containing the decision packages.

[EXHIBIT\(jnh14a03\)](#)

**Motion/Vote:** REP. WALTER MCNUTT, HD 37, SIDNEY, moved to approve the base level funding, plus state-wide present law adjustments. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2101

**Motion/Vote:** SEN. KEN HANSEN, SD 17, HARLEM, moved to approve DP 2101. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2102

SEN. BOB HAWKS, SD 33, BOZEMAN, moved to approve DP 2102.

**Discussion:**

SEN. GREGORY BARKUS, SD 4, KALISPELL, wondered why the phone system was not being funded in 2006 rather than 2007.

**Ann Bauchman, Centralized Services Division, Department of Natural Resources and Conservation,** explained the system could be maintained until 2007.

**Substitute Motion/Vote:** SEN. BARKUS made a substitute motion that DP 2102 make the phone system biennial and one-time-only. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2110

**Doug Schmitz, Governor's Office of Budget and Program Planning,** noted the Department has agreed to fund one-half from existing sources and was requesting the other half from state Special Revenue. **Mr. Schmitz** explained that because of the water adjudication process, it was felt an additional attorney was needed.

**REP. McNUTT** wondered whether the position would be contingent upon passage of HB 22. **Mary Sexton, Director, Department of Natural Resources and Conservation**, replied it was not.

**Motion:** **REP. McNUTT** moved DP 2110 be approved.

**SEN. HANSEN** clarified that \$41,202 represented one-half of the total amount, and it would be up to DNRC's discretion to fund the other one-half. **Mr. Schmitz** agreed that was correct.

**SEN. BARKUS** asked whether the position would be filled if DP 2110 was not approved. **Mr. Schmitz** explained it would not be filled because the request would have been considered and denied.

**Vote:** The motion to approved DP 2110 carried 4-2 by roll call vote with **REP. JOHN MUSGROVE** voting by proxy.

DP 2201

**Motion/Vote:** **SEN. HANSEN** moved DP 2201 be approved. The motion carried unanimously with **REP. MUSGROVE** voting by proxy.  
{Tape: 1; Side: A; Approx. Time Counter: 15.4 - 16.8}

DP 2203

**Motion/Vote:** **REP. McNUTT** moved DP 2203 be approved.

**Discussion:**

**SEN. BARKUS** asked if the RIT funds were going to be substantially lessened. **CHAIRMAN RIPLEY** replied there is a \$1 million difference, and that additional information should be available within the next few days. **SEN. BARKUS** spoke against the motion and suggested it should be pushed out to 2006 and 2007. **Mr. Schmitz** explained it has been requested as a biennial appropriation, and that it is oil and gas money not RIT.

**Tom Richmond, Department of Natural Resources and Conservation**, explained Oil and Gas Energy, Education, and Outreach is a pilot proposal and stated he would not object to it being made a one-time-only appropriation. **CHAIRMAN RIPLEY** added that he has reviewed copies of the Wyoming and North Dakota programs, and that they were very impressive. Montana's program is modeled after those programs.

Motion/Vote: REP. McNUTT moved DP 2203 be approved as one-time-only. The motion carried unanimously and REP. MUSGROVE voting by proxy.

DP 2204

Motion/Vote: REP. McNUTT moved DP 2204 be approved. The motion carried 5-1 with SEN. BARKUS voting no and REP. MUSGROVE voting by proxy.

DP 2205

Motion/Vote: SEN. HAWK moved DP 2205 be approved. The motion carried unanimously with REP. MUSGROVE voting by proxy.

Motion/Vote: SEN. BARKUS moved the language on C-137 be approved. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2206

Motion/Vote: REP. McNUTT moved DP 2206 be approved. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2207

Motion/Vote: SEN. BARKUS moved DP 2207 be approved. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2301

Motion: SEN. BARKUS moved DP 2301 be approved.

Questions:

SEN. HAWKS clarified his understanding that this is one-time funding. Mr. Schmitz explained the legislature approved the position during the last legislature, but was missed in the turn around process. Therefore, it was approved in the interim and DP 2301 seeks to make the position permanent.

Vote: The motion to approve DP 2301 carried unanimously with REP. MUSGROVE voting by proxy.

DP 2302

**Motion/Vote:** REP. McNUTT moved to approve DP 2302. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2303

**Motion/Vote:** SEN. BARKUS moved to approve DP 2303. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2310

**Ms. Smith** stated the department has requested the package be reduced to \$7,000 per year, and that the additional money will come through language if fees need to be increased.

**Motion/Vote:** REP. McNUTT moved to approve DP 2310. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2313

**Motion/Vote:** SEN. HAWKS moved to approve DP 2313. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2314

**Motion/Vote:** SEN. BARKUS moved to approve DP 2314. The motion carried unanimously with REP. MUSGROVE voting by proxy.

*{Tape: 1; Side: B}*

DP 2304

**Motion/Vote:** REP. McNUTT moved to approve DP 2304. The motion carried unanimously with REP. MUSGROVE voting by proxy.

DP 2305

**Motion:** SEN. HAWKS moved to approve DP 2305.

**SEN. BARKUS** asked why the program is general fund rather than state special revenue. **Ms. Smith** replied the amount is in the wrong column on the spreadsheet and should be indicated as state special revenue.

**Vote:** The motion carried unanimously with REP. MUSGROVE voting by proxy.

**DP 2306**

**SEN. HAWKS** noticed he had a note stating DP 2306 may not be necessary. **Ms. Ann Bauchman, Centralized Services Division**, stated moving the funds from Renewable Resources to Reclamation Development will give them a better cash position based upon projected revenue and is still required. Anna Miller, DNRC, added DP 2306 will give DNRC flexibility in the event one account is short and another account is long.

**Motion/Vote:** **SEN. HAWKS** moved to approve DP 2306. The motion carried unanimously with REP. MUSGROVE voting by proxy.

**DP 111**

**Ms. Smith** explained there is legislation presented in both the House and Senate to restore the Agricultural Heritage Program. **Ms. Smith** stated she has been notified by legal counsel that there is a potential constitutionality issue with the proposed legislation; therefore, approval of DP 111 will be contingent upon legislation which may or may not be presented.

**Mr. Schmitz** noted restoration of the Agricultural Heritage Program is one of Governor Schweitzer's proposals, but did not know whether the legislation contained an appropriation.

**CHAIRMAN RIPLEY** voiced his concern that the proposal does not contain benchmarks to determine the success of the program, and **CHAIRMAN RIPLEY** thought there should be some way to measure the success of a new program. **Mr. Schmitz** recalled the program was in existence for a couple of bienniums, but was not funded in the last biennium.

**Mr. Ray Beck, Administrator, Conservation & Resource Development Division, DNRC**, agreed the program was in existence at one time and had a sunset. This funding would reestablish the program.  
{Tape: 1; Side: B; Approx. Time Counter: 4.3 - 9.7}

**DP 2320**

**Motion:** **SEN. HANSEN** moved to approve DP 2320.

**Discussion:**

**Mr. Schmitz** noted the next packages had not been recommended by the Executive and are predicated upon additional revenue estimates that the Executive is not in concurrence with.

**CHAIRMAN RIPLEY** noted the 26 percent increase in funding is more than what would be required to restore the program. **CHAIRMAN RIPLEY** commented he would like an opportunity to speak with **REP. MUSGROVE**.

Without objection, **SEN. HANSEN** withdrew his motion until such time as **REP. MUSGROVE** could be present.

DP 2321

**Motion/Vote:** **REP. McNUTT** moved to approve DP 2321. The motion carried unanimously with **REP. MUSGROVE** voting by proxy.

DP 2322

**Motion:** **SEN. HANSEN** moved to approve DP 2322.

**Discussion:** **SEN. BARKUS** noted the funds were to be used for travel and other related activities. **SEN. HANSEN** replied it was his understanding the money would be divided among the 15 conservation districts.

**Mr. Beck** explained there are 15 conservation districts along the Missouri River. **Mr. Beck** explained a fair amount of travel is involved, but they also plan to contract a staff position and conduct studies and other services.

**CHAIRMAN RIPLEY** noticed the Yellowstone Council had expended \$30,000 compared with the \$80,000 in DP 2333. **Mr. Beck** recalled the Yellowstone Council did not have a staff person for a period of time, and that they believed \$80,000 would be appropriate.

**Vote:** The motion to approve DP 2332 passed 5-1, with **REP. RIPLEY** voting no, and **REP. MUSGROVE** voting by proxy.

DP 2324

**Motion:** **SEN. HAWKS** moved to approve DP 2324 and pay for it with funds from the Coal Tax Shared Revenue account.

**Discussion:**

**Ms. Smith** directed the committee to her comment about moving the funding to the Coal Severance Tax instead of one of the Resource Indemnity Trust (RIT) accounts because it was previously funded through those dollars during the period of time it was not funded by the committee. **Ms. Smith** noted if the committee moved on the package, it would be necessary to make a substitute motion to fund it with coal tax dollars, rather than RIT funds, and it would reduce the amount of the shared revenue account for the Department of Agriculture.

**Mr. Schmitz** wondered if all the percentages would need to be adjusted.

**Ms. Smith** noted the money could be used from the Growth Through Ag program and put into DNRC. **CHAIRMAN RIPLEY** thought that would be a good idea.

**SEN. HAWKS** recalled this was a very painful cut and left a significant void. **REP. McNUTT** agreed.

**Vote:** The motion to approve DP 2324 and pay for it with funds from the Coal Tax Shared Revenue account carried unanimously with **REP. MUSGROVE** voting by proxy.

**DP 2325**

**Motion:** **SEN. BARKUS** moved to approve DP 2325.

**Discussion:**

**SEN. BARKUS** urged support for DP 2325 stating the program gets a lot bang for the buck. **SEN. HANSEN** agreed.

**CHAIRMAN RIPLEY** voiced concern that about DP2325 being Coal Tax shared dollars.

**Mr. Schmitz** asked whether the money would come from one area of the Coal Tax shared dollars or whether there would be a reallocation in all programs. **Ms. Smith** calculated the coal tax shared revenue account is \$107,075 over the biennium over revenue estimates. If the money were taken from Growth Through Agriculture, that allocation would be reduced by \$53,000, which is less than what will be taken to fund the range position. **Ms. Smith** agreed to provide the committee with a spreadsheet, so the



committee can know exactly where the budget stands before making a decision on DP 2325.

**{Tape: 1; Side: B; Approx. Time Counter: 24.6 - 30.4}**

**(REP. MUSGROVE arrived at this point.)**

**DP 2326**

**Motion: SEN. BARKUS moved to approve DP 2326.**

**Discussion: Mr. Beck** explained DP 2326 was requested by the Montana Association of Conservation Districts and spoke about difficulties in processing applications.

**{Tape: 2; Side: A}**

**CHAIRMAN RIPLEY** commented he would like to see this DP 2326 be one-time-only and restricted.

**Vote: The motion to approve 2326, one-time-only and restricted, carried 5-1 with REP. RIPLEY voting no.**

**DP 2327**

**Motion/Vote: SEN. HANSEN moved to approve DP 2327. The motion carried unanimously.**

**DP 2320**

**Mr. Beck** defended the proposed \$70,500 year to be used to reinstate the conservation district position. Mr. Beck stated there are only five positions for the entire state of Montana.

**CHAIRMAN RIPLEY** asked what involvement the conservation district has in timber. **Mr. Beck** stated the conservation districts are viewed as a conduit between state, federal, and local programs.

**Motion/Vote: REP. MUSGROVE moved to approve DP 2320. The motion carried 501 with REP. RIPLEY voting no.**

**(Rep. Buzzas arrived at this point.)**

**Ms. Smith** directed the committee to the language packages.

**Motion/Vote: SEN. HANSEN moved to approve the language on C-144. The motion carried unanimously.**

**Ms. Smith** noted that if grazing fees are not raised, there will not be \$20,000 in the account.

**Motion/Vote:** REP. MUSGROVE moved to adopt the language in Appropriation 1, the amended language. The motion carried unanimously.

**Motion:** SEN. BARKUS moved to approve language Appropriation 2.

**Discussion:**

**SEN. HAWKS** asked if **SEN. BARKUS** wanted to restrict the funds in any way.

**Ms. Smith** raised the issue that language appropriation is more difficult to track. **Ms. Smith** suggested if they wanted to give flexibility to access the funds for an emergency, they could do a one-time-only restricted biennial appropriation. **CHAIRMAN RIPLEY** commented the funding is coming from a fees increase from their own association.

**Mr. Beck** provided an explanation and stated there would be \$50,000 available per rancher to assist with getting water back on line.

**SEN. HAWKS** wondered if there would be legal settlement funds to cover these costs and wondered if the fund would be reimbursed.

**Mr. Beck** agreed that was a good point, and that it would need to be worked out.

**Vote:** The motion to approve the language in Appropriation 2 carried 6-1, with REP. RIPLEY voting no.

**DP 2402**

**Motion/Vote:** REP. McNUTT moved to approve DP 2401. The motion carried unanimously.

**Ms. Smith** noted one correction and stated the reference should be to 78-5-31.

**DP 2403**

**Motion:** REP. MUSGROVE moved to approve 2403.

**Motion/Vote:** SEN. BARKUS made a substitute motion to approve DP 2403 for one-time-only. The motion carried unanimously.

**Motion/Vote:** The motion to approve DP 2403, as amended, carried unanimously.

**DP 2404**

**Motion:** REP. McNUTT moved to approve DP 2404.

**Discussion:**

**SEN. BARKUS** asked if anyone could justify the study versus putting the money into solid improvements.

**Mr. Jack Stultz, Water Resources Division, Department of Natural Resources and Conservation,** stated mitigation efforts are in place, and this is a review by the biologists.

**SEN. McNUTT** withdrew his motion without objection until such time as a representative of Fish, Wildlife & Parks (FWP) could be present. **Ms. Smith** agreed to request information from FWP.

**DP 2405**

**Motion:** SEN. MUSGROVE moved to approve DP 2405.

**CHAIRMAN RIPLEY** suggested DP 2405 be restricted to one-time-only. **SEN. MUSGROVE** agreed.

**Ms. Smith** reminded the committee that this is the first phase of construction, and next session they will be faced with rehabilitation costs.

**Vote:** The motion to approve DP 2405 carried unanimously.

**DP 2406**

**Motion/Vote:** SEN. HANSEN moved DP 2406 be approved and restricted to one-time. The motion carried unanimously.

**DP 2407**

**Ms. Smith** explained there is a bill in place which would make the attachment to DNRC permanent.

**CHAIRMAN RIPLEY** asked what the legislation would do. **Ms. Smith** explained the legislation would remove the termination date for the transfer.

**Motion:** SEN. MUSGROVE moved to approve DP 2407.

**Discussion:**

**Mr. Stults** explained SB 138 would make permanent the transfer of the Commission, in terms of its administrative attachment, from the Governor's Office to the DNRC. If the bill does not pass, the Commission will remain attached to the Governor's Office.

**Mr. Stults** further explained DP 2407 is a reduction because of one-time-only contracted services that will not be repeated in the next biennium.

*{Tape: 2; Side: B}*

**Vote:** The motion to approve DP 2407 carried unanimously.

DP 2408

**Motion:** SEN. HANSEN moved DP 2408 be approved for one-time-only.

**Discussion:** SEN. BARKUS asked if the number was firm.

**Mr. Stults** replied the cost was very well established and included the cost of equipment and the rental of data storage space.

**Vote:** The motion to approve DP 2408 for one-time-only carried unanimously.

**Motion/Vote:** SEN. BARKUS moved to approve the language for the Water Resource Division. The motion carried unanimously.

DP 2409

**Mr. Schmitz** stated the proposal is submitted by Governor Schweitzer for \$2 million over the biennium, \$400,000 of which should be used for DNRC's database.

**CHAIRMAN RIPLEY** understood the database is needed and the proposal needs to be passed, but would like to see a way to ensure the DNRC is moving through the process.

**REP. McNUTT** reported DNRC is still working on being able to print final decrees. **REP. McNUTT** noted HB 22 sets parameters and benchmarks that must be met or the funding will stop. **REP. McNUTT** thought it would be appropriate to ask the Environmental Quality Council (EQC) to follow the water adjudication issue.

**SEN. BARKUS** asked for an explanation of how the \$1.6 million could be quantified just to address the funding of a process.

**Mr. Stults** explained \$400,000 would be used for the database, and the two other components would be the billing system and the ability to interface the database with the optical imaging program. The remaining money will be used for staffing identified in the fiscal note for HB 22.

**SEN. HAWKS** asked what impact there would be on the rate of adjudication. **Mr. Stults** replied HB 22 requires the DNRC's role to be completed in ten years.

**CHAIRMAN RIPLEY** asked if approving DP 2409 contingent upon HB 22 passing would allow them to track the \$1.6 million. **Ms. Smith** suggested that if they want to track the \$1.6 million versus the \$400,000, they should separate the funds into two line items.

**CHAIRMAN RIPLEY** agreed the amounts should be split into two separate decision packages. **Mr. Schmitz** explained Governor Schweitzer wants \$2 million to go toward water rights adjudication regardless of whether HB 22 passes.

**REP. McNUTT** asked if water adjudication account language is needed. **Ms. Smith** agreed.

**Motion:** **REP. McNUTT** moved to split the funds with one appropriation being a \$400,000 one-time-only appropriation restricted to the database, and the other being a \$1.6 million appropriation restricted to water rights adjudication activities. In addition, the EQC will be instructed to monitor the progress.

**Discussion:**

**SEN. BARKUS** stated he would like to see more of a plan outlining how the money would be spent.

**CHAIRMAN RIPLEY** shared those concerns, but commented he would support the motion with the request that DNRC bring more information and a plan prior to the full appropriations committee taking action.

**Vote:** The motion to approve DP 2409 carried 6-1 with Barkus voting no.

**{Tape: 2; Side: B; Approx. Time Counter: 5.3 - 24}**

**DP 2410**

**CHAIRMAN RIPLEY** explained DP 2410 was removed.

**DP 2411**

**Motion:** REP. McNUTT moved to adopt DP 2411.

**Discussion:**

REP. BARKUS suggested DP 2411 seemed like it would be a bonding appropriation. Ms. Smith responded that because of the funding with the Broadwater facility, the money has been set aside over time.

Mr. Schmitz explained the revenues are generated from the sale of electricity from the project and revenues are also used for the rehabilitation, upkeep and funding other water projects.

REP. McNUTT asked if language was needed to restrict the funds to the Broadwater Bridge replacement activities only. CHAIRMAN RIPLEY agreed.

Mr. Stults commented there is almost \$850,000 in the account.

Mr. Stults stated money that is received from power generated and then sold to NWE is used to establish an operating and maintenance account.

SEN. HAWKS wondered if there was an implication between the bankruptcy and NWE. Mr. Stults explained in 2003, the legislature appropriated \$350,000 to repair the bridge in place. An engineering analysis revealed that because of hazardous materials on the bridge, it would be more cost-effective to replace the bridge rather than to repair it. Mr. Stults explained the fund balance would be \$200,000 which would be sufficient to handle anything within the next two years.

**Motion/Vote:** REP. McNUTT moved to approve DP 2411 for one-time-only and to restrict its use. The motion carried unanimously.

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**DP 2412**

Ms. Smith explained DP 2412 came through Rep. Jackson who has a bill (HB 236) to make the Clark Fork Task Force permanent. Ms. Smith noted the reference on the spreadsheet should be to \$25,000 and not \$250,000.

**Motion:** SEN. BARKUS moved to approve DP 2412.

**Ms. Smith** reminded the committee DP 2412 is RIT renewable resource funds, not recreation and development.

**Vote:** The motion to approve DP 2412 carried 6-1, with **REP. RIPLEY** voting no.

**DP 2501**

**Motion/Vote:** **REP. MUSGROVE** moved to approve DP 2501. The motion carried unanimously.

**DP 2502**

**Motion:** **REP. MUSGROVE** moved to approve DP 2501, one-time-only.

**Discussion:**

**Susan Cottingham, Reserved Water Rights Compact Commission,** explained the St. Mary's project is integral to their compact settlements in the Milk River. The Compact Commission's role is to negotiate a water rights settlement with the Blackfeet Tribe for their reserved water rights on the Reservation, which includes the St. Mary's River and the Milk River Headwaters. **Ms. Cottingham** reported increased interest from the Tribal Counsel to begin to reach a settlement. **Ms. Cottingham** stated they are trying to do this parallel to the St. Mary's project. **Ms. Cottingham** stated they would like to contract for engineering services to look closely at the irrigation process and its efficiencies. **Ms. Cottingham** explained there is a 2009 sunset date, and they are attempting to get as much accomplished as possible. **Ms. Cottingham** suggested they have a unique opportunity to complete the Blackfeet settlement. **Ms. Cottingham** testified they do not have some of the engineering and biology expertise on staff that will be needed. **Ms. Cottingham** stated the Commission is very careful with how it spends contracted services money.

**SEN. HAWKS** suggested the Commission is attempting to negotiate with the tribes without any concept of how modernized engineering could affect the project. **Ms. Cottingham** stated staff is analyzing these issues.

**SEN. MUSGROVE** clarified the correct amount is \$195,000 for the biennium. **Ms. Smith** replied that was correct.

**SEN. HANSEN** thought a lot of the engineering work had already been completed. **Ms. Cottingham** clarified some of the engineering

has been completed in a general sense, but significant issues still remain.

**Vote:** The motion to approve DP 2502 carried 5-2 with Barkus and Ripley voting no.

**DP 3502**

**Motion:** REP. BUZZAS moved to approve DP 3502.

**Discussion:**

REP. BUZZAS recalled the request is to be moved from one-time-only to permanent. Ms. Smith agreed the request is to move the funds into the base.

SEN. HAWKS recalled a considerable amount would come from federal funds.

Mr. Bob Harrington, Department of Natural Resources and Conservation, believed the funding is a combination of state special revenue and federal funds, and that no general funds would be used for this biennium.

**Vote:** The motion to approve DP 3502 carried unanimously.

**DP 3503**

**Motion/Vote:** SEN. BARKUS moved to approve DP 3503 and make the nursery section a proprietary account, so the legislature can track the revenues and expenditures. The motion carried unanimously.

**DP 3504**

**Motion/Vote:** SEN. MUSGROVE moved to approve DP 3504. The motion carried unanimously.

**DP 3506**

**Motion/Vote:** SEN. MUSGROVE moved to approve DP 3506. The motion carried unanimously.

**Discussion:**

Mr. Harrington explained they currently have four operational helicopters and this would be the fifth. SEN. BARKUS requested



statistical information regarding the usage of the other four helicopters. **Mr. Harrington** directed the committee to the document he submitted earlier at his presentation. **Mr. Harrington** explained the fifth helicopter would be a spare helicopter to be used if one of the other four were down for maintenance.

In response to a question from **CHAIRMAN RIPLEY**, **Mr. Harrington** explained that under extreme circumstances, they have contracted for additional aircraft. **Mr. Harrington** suggested building a helicopter is the easy part, but supplying a pilot can be difficult.

**SEN. HAWKS** inquired how common it is that helicopters are contracted out to other parts of the country. **Mr. Harrington** replied it is not common, and most states have their own resources. **Mr. Harrington** added contracting the helicopters out of state limits Montana's resources.

**REP. BUZZAS** inquired whether staff support was included in DP 3506. **Mr. Harrington** replied DP 3506 is limited to the helicopter and does not include FTE or operations costs. **REP. BUZZAS** noted DP 3506 is a larger commitment because of additional staff support.

*{Tape: 3; Side: B}*

**REP. BUZZAS** suggested that DP 3506 is only part of a larger discussion about ramping up Montana's ability to fight fire in case there is a bad fire season.

**SEN. HANSEN** asked about the ability to utilize the proposed helicopter to assist other state agencies in Montana, such as Fish, Wildlife & Parks. **Mr. Harrington** thought it would be important that the aircraft be available to fight fire, but noted it could be available to assist other departments, especially in the event of a disaster. **Mr. Harrington** added in FY 2004, there were 570 flight hours among three helicopters.

**SEN. BARKUS** inquired why the helicopter was not listed in the priority funding schedule. **Mr. Harrington** responded the helicopter was part of the executive budget.

**CHAIRMAN RIPLEY** commented that he agreed with Rep. Buzzas that there was a need to look at the whole fire-fighting picture and stated he would be moving for the forestry proposals to come into compliance with the audit. **CHAIRMAN RIPLEY** identified water

adjudication and fires as the two most important issues the committee would be looking at this session.

**REP. McNUTT** commented \$200,000 for a \$3 million helicopter is a steal, and that it would be foolish not to pass DP 3506.

**Vote:** The motion to approve DP 3506 for one-time-only carried unanimously.

#### DP 3510

**CHAIRMAN RIPLEY** explained that DP 3510 would provide funding for 5.11 FTE. **CHAIRMAN RIPLEY** stated his idea is that the funding would come out of the general fund. **CHAIRMAN RIPLEY** stated any money that comes out of the general fund to prevent and fund fires is less money that will have to be appropriated in a supplemental or a special session.

**REP. BUZZAS** commented many audits are conducted for different departments, and those audits always make recommendations about what should be funded. **REP. BUZZAS** urged caution. **CHAIRMAN RIPLEY** agreed, but stated it becomes a matter of priority and given the extreme drought and bad fire seasons, fire should be a top priority.

**Ms. Smith** noted the committee could consider a biennial one-time-only restriction. **Ms. Smith** added that in the event of a bad fire season, her job will be to keep the Legislative Finance Committee apprised of what is being spent and where the money is coming from.

**Motion:** **REP. McNUTT** moved DP 3510 through DP 3514 be approved.

**Motion/Vote:** **SEN. BARKUS** moved to segregate DP 3514 from the motion. The motion carried unanimously.

**Vote:** The motion to approve DP 3510 through DP 3513 carried 6-1 with **REP. BUZZAS** voting no.

#### DP 3514

In addressing DP 3514, **Mr. Harrington** stated that authority is still needed to address severity resources. **Ms. Smith** added that in a bad fire season the appropriation could come from anywhere in the department to address a severe need and when the cash comes back in, the appropriations are made whole again.

**Motion:** REP. McNUTT moved DP 3514 be approved.

**SEN. BARKUS** stated he would not support the motion because he believes there are too many of these kinds of accounts throughout state government.

**Ms. Smith** clarified to Director Sexton that what the committee passed was full general fund funding.

**Vote:** The motion to approve DP 3514 carried 5-2 with REPS. BARKUS and BUZZAS voting no.

DP 3521

**Motion/Vote:** REP. McNUTT moved to approve DP 3521. The motion carried unanimously.

DP 3522

**Motion:** REP. MUSGROVE moved to approve DP 3522.

**Discussion:**

**CHAIRMAN RIPLEY** asked if there was a new proposal that also addressed road maintenance. **Ms. Smith** directed **CHAIRMAN RIPLEY** to DP 3525 which is funded through forestry improvement. DP 3522 is funded by a \$2 fee assessed through conservation licenses since the department has the authority to spend 10 percent of that fee.

**Vote:** The motion to approve DP 3522 carried unanimously.

DP 3523

**Discussion:**

**Thomas Schultz, Trust Land Management, Department of Natural Resources,** stated they generate in excess of \$400,000 from commercial leases, and they are asking for authority to spend \$30,000.

**REP. McNUTT** asked for future projections. **Mr. Schultz** responded they are anticipating an additional \$200,000 annual revenue received over the next biennium.

**Motion:** SEN. HAWKS moved to approve DP 3523 and would like to include a restriction that would include language "in concurrence with local zoning authority."

**Discussion:**

SEN. BARKUS asked if the proposed language was already in statute. SEN. HAWKS responded public lands are typically off the books, and there have been loopholes for local authority not having much say about how uses take place. Mr. Schultz added statute does not currently require them to go through zoning.

*{Tape: 4; Side: A}*

**Vote:** The motion to approve DP 3523 and include language "in concurrence with local zoning authority" carried 5-2 with REPS. BARKUS and RIPLEY voting no.

DP 3524

**Motion/Vote:** SEN. BARKUS moved to approve DP 3524. The motion carried unanimously.

DP 3525

**Motion/Vote:** REP. BUZZAS moved to approve DP 3525. The motion carried unanimously.

DP 3526

**Motion/Vote:** REP. BUZZAS moved to approve DP 3524 one-time-only. The motion carried unanimously.

DP 3527

**Motion:** REP. MUSGROVE moved to approve DP 3527.

**Discussion:**

SEN. HAWKS commented that he had a sense that this was the lowest income-generating aspect of public land use management. SEN. HAWKS asked if there was some sense of the amount of investment put into different sectors of trust land with regard to their production. Mr. Schultz replied that the program has the lowest return per FTE. Mr. Schultz identified a 26 percent increase in

workload. **Mr. Schultz** suggested two FTE is a very conservative estimate to continue to get the job done. **Mr. Schultz** identified the need as critical.

**SEN. MUSGROVE** commented that timber sales are very labor intensive, and that this would pencil-out in a positive manner.

**Vote:** The motion to approve DP 3527 carried unanimously.

**CHAIRMAN RIPLEY** requested **Ms. Smith** to calculate how much money they approved for renewable resource and reclamation development accounts.

**Motion/Vote:** **SEN. BARKUS** moved the proprietary rate on C-158. The motion carried unanimously.

**ADJOURNMENT**

Adjournment: 11:43 A.M.

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REP. RICK RIPLEY, Chairman

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Cynthia A. Peterson, Secretary

RR/CP

Additional Exhibits:

**EXHIBIT ([jnh14aad0.PDF](#))**